



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
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April 7, 2011

via email:

David L. Braverman, Esq.
Braverman Kaskey
One Liberty Place, 56th Floor
Philadelphia, PA 19103

RE: Arsenal Business Center (ABC)
Response to April 5, 2011 Letter

Dear Mr. Braverman:

This letter serves to both reply to and acknowledge receipt of Arsenal Associates and Hankin Management's (collectively, Arsenal) April 5, 2011 response to the Agency's March 30, 2011 Administrative Compliance Order (ACO). Under the ACO, Arsenal was offered the Opportunity to Confer with Agency representatives prior to the effective date of the ACO. Such Opportunity to Confer took place at the regional office on Monday, April 4, 2011. Arsenal's April 5, 2011 response constitutes a written summary of issues/concerns raised by Arsenal during the "confer" period. This written reply constitutes the Agency's consideration and resolution of Arsenal's concerns raised during the Opportunity to Confer. Accordingly, the period to confer is now concluded.

As written, the ACO places joint duties on the owner and operator of the Arsenal. To the extent you believe that the Agency has listed the names of the parties incorrectly, please provide legal documentation to such effect. Likewise, if you believe that the Agency has named Hankin Management in error please provide documentation to such effect.

In the April 5, 2011 response, Arsenal states that it is currently in compliance with Paragraph 55 A-D of the ACO. In accordance with the ACO and applicable regulations, duly authorized representatives of the Agency will visit the ABC tomorrow, April 8, 2011, to verify compliance. Upon the showing of credentials, Agency representatives should be granted unrestricted access to ABC to perform the necessary inspections which may or may not include the entire Facility. Agency specific replies to the remainder of paragraph 55 of the ACO are included below.



Paragraph 55A of ACO: After consultation with the City, beginning Monday, April 11, 2011, ABC will be allowed to resume permitted remediation/demolition of the following buildings/structures which have current active demolition permits as identified as follows: 47, 48A-E, 51, 52, 55, 64, 120, 141, 141A, 142, 142A, 150, 224, 228, 250, 307, and 308. Any building or structure not included above shall be covered by the cease and desist provision of the ACO and must be included in the workplan required under Paragraph 55G and H of the ACO. Further, to the extent that any building/structure has been deemed "ID" and is not listed above for continuation/start of demolition, then such building/structure must be properly secured and fenced off from the remainder of the Facility until such time as applicable permits are issued and demolition is approved by the Agency.

Paragraph 55B(ii) of the ACO: Please provide, via email to convery.christine@epa.gov, an itemized list of which tunnels you were unable to gain access to based on "having previously secured the entrance ways to these buildings."

Paragraph 55B(iv) of the ACO: Please ensure that the signage is "clearly visible to the public . . . along Baird Street" (i.e. wording should be facing Baird Street). Also, although not expressly stated in the ACO, the presumption is that any signage placed at the ABC will be in accordance with OSHA regulations.

Paragraph 55E of the ACO: The Agency is working with AMS to determine the best strategy to secure and dispose of the bags in buildings 121 and 123. Until such time as a decision is made, please ensure that these buildings remain sealed and locked as stated in Paragraph 55C. Please note that any future removal of these bags must be in accordance with asbestos NESHAP disposal requirements which requires notification to EPA along with obtaining any local or state permits.

Paragraph 55F of the ACO: **Is hereby revised** to allow fifteen (15) business days from the effective date of the ACO for compliance. Accordingly, ABC has until **April 27, 2011** "to submit a work plan delineating how the Respondents propose to perform a comprehensive asbestos survey of the entire Facility to . . ."

Paragraph 55G of the ACO: **Is hereby revised** to allow ten (10) business days from the effective date of the ACO for compliance. Accordingly, ABC, in effect, has until **April 20, 2011** to "notify EPA, in writing, of the identity and qualifications of the contractor, subcontractor, supervisory personnel, and other persons who will be responsible for performing the comprehensive asbestos survey . . ."

Paragraph 55H of the ACO: No extension of time will be granted. This request is premature as the requirement does not become due until after "completing the survey described in paragraph F." In addition, the Agency has reason to believe that ABC may already have most, if not all, of this information. In a March 8, 2011 email, dictated by Mr. Hankin, to the City of Philadelphia Department of Health it states:

"We will be forwarding to you our proposed plans to address the concerns of the Air Management Services ("AMS") for those buildings which AMS has

"Excluded
15"

posted as "contaminated". We hope to have the first plan to you within the next few weeks. The plans will be prepared in association with Professor Lester Levin of Temple University to ensure that these plans are reasonable and appropriate for the actual conditions found in the field."

Accordingly, the information reference by Mr. Hankin above should be forwarded to the Agency without further delay. Specific details regarding the requirements of Paragraph 55H(ii) - (viii) should be included in the workplan required to be submitted under this subparagraph. Please note that the summary listed in the April 5, 2011 response is not a sufficient response for compliance. Specifically, the workplan must include specific details regarding how buildings identified as "ID" will be demolished along with any surveys, work plans, sampling data, permits, building conditions, contamination, dates, etc.

Nothing in the ACO is designed or intended to circumvent local access, notification, or permit requirements that are in effect by the City of Philadelphia or the Commonwealth of Pennsylvania. It is ABC's responsibility to comply with all local application and permit requirements before proceeding with any planned activity under the ACO. However, failure to promptly obtain or apply for any application or permit for work required to be completed under the ACO shall be deemed noncompliance with the ACO.

Thanks in advance for your anticipated continued cooperation in the protection of human health during the proposed demolition activity at ABC. The contents of this letter constitutes the Agency's full reply to Arsenal's written response and no further response by you is necessary. However, please call me at (215) 814-2474, if you have any questions or need additional information.

Sincerely,

/s/

Donzetta Thomas

Senior Assistant Regional Counsel

cc: Michelle Walker, Esq. (Braverman Kaskey)
Dennis Yuen, City of Philadelphia Law Department